

## **REGULAR CITY COUNCIL MEETING MINUTES**

**January 25, 2011 - 7:00 P.M.**

Mayor Nolan called the City Council meeting to order at 7:00 p.m. and led the pledge to the flag. Clerk Wells called roll. Aldermen present: Leyden, Marzahl, Ulmer, Musgrove, Logan, Perkins and Opper. Alderman Adams was absent. Also present were Treasurer Meseck, City Administrator Nelson, Code Enforcement Officer Brennecka, Community Development Director Santeler, Police Chief Kazy-Garey, Supt. Public Works Kruckenberg, Supt. Utilities Grant, City Attorney Carlos Arévalo and members of the audience.

### **AUDIENCE PARTICIPATION**

Ramiro Gonzalez, 102 Autumn Glen Dr., Harvard inquired about the Illinois Power Agency Act and the upcoming referendum. Mayor Nolan responded that the proposed referendum will save residents money. If it passes, the City Council would get bids every year, awarding the bid to the lowest bidder. Individuals that did not wish to participate would be able to opt out. Electricity would run through ComEd's lines as it does today and they would still maintain lines and fix power outages; bills would still be generated through ComEd. The City has been doing this with our larger commercial accounts (sewer treatment plant and wells) for about 10 years. Mayor Nolan noted there will be more information coming out on the proposed referendum and that he and Administrator Nelson are available at City Hall to answer any questions. The Mayor also noted that since deregulation, ComEd is a power distributor and is no longer in the business of producing power. Ramiro inquired if there was a possibility that ComEd could pull out in 5-10 years if they're not making any money. Administrator Nelson responded that ComEd is an ICC regulated company and under ICC regulations they are pretty much guaranteed a profit for its shareholders and can always go back to the ICC for an increase. Dave noted there are 45 other Illinois communities that are proposing the same efforts.

### **CITY COUNCIL MEETING MINUTES OF 12/14/2010 - APPROVED**

Moved by Perkins, seconded by Marzahl to approve the minutes of the Regular City Council Meeting of December 14, 2010, as presented. Aldermen voting aye: Leyden, Marzahl, Ulmer, Musgrove, Logan, Perkins and Opper. All ayes. Motion carried.

### **MERRYMAN AGGREGATE FIRST AMENDMENT OF ANNEXATION AGREEMENT – ORD 2011-101 APPROVED**

Mayor Nolan reviewed the First Amendment to the Annexation Agreement which was proposed in May, 2010 to double the life expectancy, extend the agreement and reduce payment amounts by half. Since the last City Council meeting, Merryman Aggregate has made a good faith effort in the amount of \$20,000 to pay the outstanding mining fee for 2010, with the balance of \$77,500 due by March 1, 2011. Mayor Nolan further noted that Merryman Aggregate has completed the required paving and fencing. The fee payout is incorrect in the proposed agreement and Mayor Nolan will clarify the balance due which will be payable over the course of 12 years in annual installments of \$48,750.00 with semi-annual payments due on September 1 and December 1 of each year. If the petitioner defaults, the City would have the same recourse as is available today. At Alderman Leyden's inquiry, Attorney Arévalo indicated that if it became necessary and the contractual obligation were not met, the City would have the opportunity to move forward and lien the property. There is also a provision in the agreement for a balloon payment in the event they cease the operation prior to the end of the conditional use and that the residential and business zoning at the end of the project does not apply until the fee is satisfied in full. Administrator Nelson reported that Merryman is in full compliance with the agreement with the exception of payment and they have complied with all the violations as noted by the IEPA. Rick Zirk, Project Manager of Merryman Aggregate, 14212 Washington St., Woodstock, stated that a Compliance Agreement has been approved by the IEPA which has been forwarded to City staff along with the IEPA approval letter.. The IEPA will check on the site when they are back in operation to make sure they are in compliance.

At the Mayor's inquiry regarding future dust control, Rick Zirk responded that Merryman Aggregate hired Don Fortin late last year to resolve those kinds of issues. Don has since been assigned to deal with the operations out of the Harvard pit with the responsibility and authority to deal with issues as they come

forward. Don is currently working on a plan for an active and passive watering system to deal with the dust control. He will be contacting the neighbors with his business card in the event there is an issue, they can deal directly with him.

Mayor Nolan clarified the semi-annual payment dates of September 1<sup>st</sup> and December 1<sup>st</sup> and recommended that a 10% late fee be included in the agreement.

Moved by Logan, seconded by Ulmer to approve Ordinance 2011-101, granting Merryman Aggregate's request and authorizing the Mayor to execute the ordinance and the First Amendment to the Annexation Agreement to be effective March 1, 2011, with the following conditions:

1. Said Ordinance and First Amendment to the Annexation Agreement are subject to the payment of the balance of the 2010 mining fee in the amount of \$77,500 to be paid in full on or before March 1, 2011.
2. Failure to failure to pay the balance of the 2010 mining fee would result in the withdrawal of said Ordinance and First Amendment to the Annexation Agreement at which time the original Annexation Agreement would remain in place.
3. 10% late fee added to the agreement for failure to pay the fees by the semi-annual payment due dates.

Roll call vote: Leyden, aye; Marzahl, aye; Ulmer, aye; Musgrove, aye; Logan, aye; Perkins, aye; Opper, aye and Mayor Nolan, aye. Ordinance 2011-101 approved eight to zero.

**WISCONSIN BICYCLE RACING REQUEST AT MILKY WAY PARK JUNE 11, 2011 – APPROVED**

Moved by Logan, seconded by Ulmer to approve the Wisconsin Bicycling Racing request to conduct time trials at Milky Way Park using the west shelter on Saturday, June 11<sup>th</sup>, 2011, from 7:30 a.m. – 1 p.m. with more than 150 participants. Aldermen voting aye: Leyden, Marzahl, Ulmer, Musgrove, Logan, Perkins and Opper. All ayes. Motion carried.

**DUNHAM TOWNSHIP TOUCH A TRUCK AT MILKY WAY PARK MAY 21, 2011 - APPROVED**

Mayor Nolan reviewed Dunham Township's request to host Touch-A-Truck at Milky Way Park with all donations raised to go to the Harvard Food Pantry Building Fund. Moved by Perkins, seconded by Marzahl to approve Dunham Township's request to host a Touch-A-Truck event at Milky Way Park on Saturday, May 21, 2011, from 8 a.m. – 4 p.m. Aldermen voting aye: Leyden, Marzahl, Ulmer, Musgrove, Logan, Perkins and Opper. All ayes. Motion carried.

**MCHENRY COUNTY FARM BUREAU TRACTOR TREK JULY 16, 2011 – APPROVED**

Administrator Nelson noted that the McHenry County Farm Bureau request is similar to previous requests to host the Tractor Trek at Milky Way Park on July 16<sup>th</sup>, 2011, with a waiver of fees. Moved by Ulmer, seconded by Marzahl to approve the McHenry County Farm Bureau request to host the 9<sup>th</sup> Annual Tractor Trek at Milky Way Park on July 16<sup>th</sup>, 2011, with a waiver of fees. Aldermen voting aye: Leyden, Marzahl, Ulmer, Musgrove, Logan, Perkins and Opper. All ayes. Motion carried.

**TRINITY LUTHERAN CHURCH REQUEST TO WAIVE BUILDING PERMIT FEES – APPROVED**

Moved by Logan, seconded by Opper to approve Trinity Lutheran Church's request to waive the building permit fees in the amount of \$83.84 to widen a hallway and remodel a restroom to be handicapped accessible. Aldermen voting aye: Leyden, Marzahl, Ulmer, Musgrove, Logan, Perkins and Opper. All ayes. Motion carried.

**VENDING LICENSE APPLICATION GUACAMOLE RESTAURANT – APPROVED**

Moved by Logan, seconded by Opper to approve the Vending License application for Guacamole Restaurant, 5204 S. Route 14, Harvard. Roll call vote: Marzahl, aye; Ulmer, aye; Musgrove, aye; Logan, aye; Perkins, aye; Opper, aye and Leyden, aye. Motion approved seven to zero.

**RECAPTURE AGREEMENT FOR HARVARD SCHOOL DISTRICT 50 – ORD. 2011-102 APPROVED**

Moved by Ulmer, seconded by Perkins to approve Ordinance 2011-102, Approving a Recapture Agreement for Harvard Community School District 50 for certain improvements on the east side of Marengo Rd. to the north and south of the intersection with Hereley Dr. Roll call vote: Ulmer, aye; Musgrove, aye; Logan, aye;

Perkins, aye; Opper, aye; Leyden, aye and Marzahl, aye. Ordinance 2011-102 approved seven to zero.

Mayor Nolan noted there will be a second recapture agreement for the Dan Hereley property which is on the west side of Marengo Rd. in relation to the same project.

**RESOLUTION AUTHORIZING THE DESTRUCTION OF CERTAIN AUDIO RECORDINGS OF CLOSED SESSION MEETINGS - APPROVED**

Moved by Perkins, seconded by Opper to approve a Resolution Authorizing the Destruction of Audio Recordings of the following closed session meetings: April 21, 2009 – May 12, 2009 – June 23, 2009. Aldermen voting aye: Leyden, Marzahl, Ulmer, Musgrove, Logan, Perkins and Opper. All ayes. Motion carried.

**RESIGNATION OF CATHY PESKINSKI FROM EVENTS COMMITTEE – APPROVED**

Moved by Logan, seconded by Marzahl to approve Cathy Pescinski's resignation from the Events Committee with regrets. Aldermen voting aye: Leyden, Marzahl, Ulmer, Musgrove, Logan, Perkins and Opper. All ayes. Motion carried.

**FYI: MCHENRY CO BOARD OF REVIEW/ASSESSMENT REDUCTION REQUESTED**

Notice has been received from the McHenry County Board of Review for a Assessment Reduction for property located at 2001 N. Division St., Harvard (former Motorola building).

**CONSENT AGENDA:**

- Harvard Wrestling Club Raffle Request January 29<sup>th</sup>, 2011
- Harvard Post Prom Committee Raffle Request January 25<sup>th</sup> – March 12<sup>th</sup>, 2011

Moved by Perkins, seconded by Opper to approve the Consent Agenda as presented. Aldermen voting aye: Leyden, Marzahl, Ulmer, Musgrove, Logan, Perkins and Opper. All ayes. Motion carried.

**COMMITTEE REPORTS**

**ALD. LOGAN - BILLS APPROVED**

Moved by Opper, seconded by Perkins to approve the bills list as presented in the amount of \$776,272.89. Roll call vote: Musgrove, aye; Logan, abstain; Perkins, aye; Opper, aye; Leyden, aye; Marzahl, aye and Ulmer, aye. Motion approved seven to zero with one abstention.

Alderman Logan expressed his appreciation to the Harvard Fire Protection District and all other fire departments that assisted with the fire Saturday evening on Ayer Street.

**ALD. ULMER**

Alderman Ulmer also expressed his appreciation to the Harvard Fire Protection District and all other fire departments that assisted with the fire on Ayer Street. Alderman Ulmer noted a call from his brother who specifically asked that he mention to the City how grateful he was to the City crews for cleaning up, salting and making conditions as safe as they did.

**ALD. MARZAH**

Alderman Marzahl noted his agreement with the other comments and said that all the fire departments did quite a job. We were fortunate that no one was hurt.

**MAYOR'S REPORT**

Mayor Nolan noted the City's participation with ILEAS and noted there were 12 or 13 different departments that assisted with the fire. Chief Kazy-Garey said there were 150-180 man hours for the police departments alone in shutting down the downtown. The ILEAS agreement is reciprocal whereby Harvard's Police Dept. assists other communities as needed and there is no charge for other departments who assisted. The Mayor is getting together a list of participating fire departments to send out a thank-you letter from his office.

**ADMINISTRATOR'S REPORT**

Administrator Nelson reminded the City Council about payroll direct deposit which is an opportunity for the City to save money and asked the City Council to lead by example and see Deb at City Hall to submit the paperwork.

Administrator Nelson noted that several years ago the City approved a resolution requesting IDOT to disconnect the traffic signal in front of Motorola because it serves no valid public purpose. The City received a response at the time from IDOT requiring that the City conduct a traffic study to prove that the signals were no longer needed. Since that point, the City Council authorized staff not to pay the bill. IDOT has recently sent the City correspondence inquiring about the City's intent on the past due payment of \$13,000. The City has informed IDOT that the City Council has not authorized payment and noted reasons for non-payment. Administrator Nelson will keep the City Council updated on the situation.

**CLERK'S REPORT - UPCOMING MEETING DATES**

- February 1 Planning & Zoning Commission Meeting, 7 p.m. POST TO CANCEL
- February 8 Regular City Council Meeting, 7 p.m. POST TO CANCEL
- February 15 Regular Events Committee Meeting, 5 p.m.
- February 22 Regular City Council Meeting, 7 p.m.

Clerk Wells noted that the Harvard Events Committee is planning a beer tent fundraiser as part of the Tri County Pro Rodeo. This will require the Chamber of Commerce to purchase a State of Illinois Special Event License at a cost of \$25. Part of the state requirement is a local license issued. Currently City code doesn't have a category to issue a license. Clerk Wells recommended an amendment to Chapter 25, Liquor Code that would mirror the state special event license. The general consensus was to put on February's City Council agenda.

**TREASURER'S REPORT**

Treasurer Meseck noted that the monthly treasurer's report for January, 2011 was in the packet.

**NO REPORTS**

City Attorney Arévalo, Administrator Nelson and Aldermen Opper, Perkins, Musgrove and Leyden had no specific report.

**DEPARTMENT HEADS REPORTS**

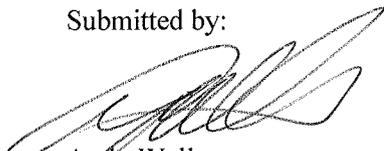
SEC Group, Inc., an HR Green Company and Dept. Heads: Reports as submitted.

Mayor Nolan commended Supt. Kruckenberg, Supt. Grant and their departments for their hard work during the fire.

Chief Kazy-Garey briefly reviewed his department report and training grants that he has received for his department.

At 7:42 p.m., moved by Logan, seconded by Perkins to adjourn the meeting. Aldermen voting aye: Leyden, Marzahl, Ulmer, Musgrove, Logan, Perkins and Opper. All ayes. Motion carried.

Submitted by:

  
 Andy Wells,  
 City Clerk

  
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 Date